02 January 2015

Milliman

The Insurance Laws (Amendment) Bill, 2014

After a delay of more than eight years, the Government of India has finally taken a significant step towards passing the Insurance Laws (Amendment) Bill 2014 (Bill). The flagship reform in the Bill is an increase in the cap on foreign shareholding, either as foreign direct investment (FDI) or through foreign institutional investors (FII).

While the Bill could not be tabled in the Upper House of the Parliament of India (known as "Rajya Sabha") in the most recent parliamentary session, on 26 December 2014 the President of India passed an Ordinance which enacts the provisions of the Bill. Although both houses of parliament must meet to vote on the Ordinance within six months (failing which the Ordinance would lapse), the Government has issued a strong message in its resolve to further liberalise the insurance sector.

Both domestic and foreign life insurance companies have been observing the developments around the insurance sector reforms with great anticipation. Some of the key provisions in the Ordinance are set out below.

Some highlights of the Bill

- The limit on foreign equity (FDI or FII) in Indian insurance companies is to be raised from 26% to 49%. However, there is a requirement that the company must remain Indian owned and controlled. The expression 'control' is defined as the right to appoint a majority of the directors or to control the management or policy decisions, including by virtue of their shareholding or management rights or shareholder agreements or voting agreements.
- Foreign re-insurers are allowed to open branches for re-insurance business in India.
- The clause of mandatory divestment of promoter shareholding in insurance companies to no more than 26% has been removed.
- Investment norms including exposure limits and prudential limits have largely been removed from the Act to be determined by the Indian insurance regulator (IRDA).
- Life insurance policies cannot be called in question on ground of misstatement after three years from the date of issuance. This period has been increased from the period of two years currently specified, but the reasons for which a policy may be challenged are made more specific in the new Bill.
- Caps on the level of management expenses and commission are to be determined by the IRDA rather than specifying the same in the Act.
- The levels of maximum penalties for non-compliance with the provisions of the Act have been increased. In particular, the penalty for non-compliance with the rural and social sector obligations have been increased to a maximum of Rs. 25 Crore – although adjudications made in this regard can be appealed to the Securities Appellate Tribunal.
- The insurer has been made responsible for all acts of omissions and commissions of its agents.
- The insurance council (e.g. Life Insurance Council) has been re-constituted as a pure industry body, removing the earlier representation by the IRDA within the same.
- The requirements of solvency margin and asset / liability valuation norms are now to be regulated by the IRDA rather than specified in the Act.

What next?

It will be interesting to see how different shareholders and joint ventures react to the opportunity of being able to realign the shareholding structures. Several foreign insurance companies are likely to enhance their holdings from the current level of 26% to 49%. Some of the larger companies may also consider bringing in foreign institutional investors, either through private placement or initial public offerings (IPOs).

In such a scenario, the key issue that is likely to arise is placing a fair valuation on life insurance companies. In valuing these companies, there are likely to be situations where there may be significant differences in the views from the two (or more) promoters.

The companies considering IPOs will need to work with SEBI (Securities and Exchange Board of India) and the IRDA to get the necessary approvals. The disclosure requirements for IPOs as outlined in the Actuarial Practice Standard 10 (APS10) issued by the Institute of Actuaries of India are also somewhat onerous, with companies needing to start and plan work well in advance of any planned listing date.

With the issuance of the Ordinance, we would also expect the IRDA to gain greater powers, with flexibility to set various regulations. This would be a welcome step, as the regulations can keep pace with the fast changing landscape in the life insurance industry.

Contact details

If you have any questions about this e-Alert, please contact:

Sanket Kawatkar
Principal and Consulting Actuary
B/712, 215 ATRIUM
Chakala, Andheri-Kurla Road, Andheri (E)
Mumbai 400 059, India
Office +91 22 6784 8410
Mobile +91 98201 81681
Email **sanket.kawatkar@milliman.com**

Richard Holloway
Managing Director, South East Asia & India, Life
133 Cecil Street, #12-02 Keck Seng Tower
Singapore 069535
Office +65 6327 2301
Mobile +65 9732 0150
Email **richard.holloway@milliman.com**

Shamit Gupta
Consulting Actuary
Global Business Square
401, Fourth Floor, Plot No 32
Institutional Area, Sector-44
Gurgaon 122 022, India
Office +91 124 464 1507
Mobile +91 98330 31513
Email **shamit.gupta@milliman.com**

Philip Jackson
Consulting Actuary
B/712, 215 ATRIUM
Chakala, Andheri-Kurla Road, Andheri (E)
Mumbai 400 059, India
Office +91 22 6784 8413
Mobile +91 96192 94144
Email **philip.jackson@milliman.com**

Disclaimer